

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA; the States of CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, FLORIDA, GEORGIA, HAWAII, ILLINOIS, INDIANA, LOUISIANA, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, MONTANA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, NEW YORK, NORTH CAROLINA, OKLAHOMA, RHODE ISLAND, TENNESSEE, TEXAS, VIRGINIA, and WISCONSIN; the DISTRICT OF COLUMBIA, the CITY OF CHICAGO, and the CITY OF NEW YORK *ex rel.*, and OSWALD BILOTTA,

Plaintiffs,

-against-

NOVARTIS PHARMACEUTICALS
CORPORATION,

Defendant.

11 Civ. 0071 (PGG)

**DECLARATION OF BENJAMIN GRUENSTEIN IN SUPPORT OF NOVARTIS
PHARMACEUTICALS CORPORATION'S MOTION FOR SUMMARY
JUDGMENT**

I, Benjamin Gruenstein, declare as follows:

1. I am a member of the law firm Cravath, Swaine & Moore LLP, counsel for Defendant Novartis Pharmaceuticals Corporation ("NPC") in the above-captioned action. This Declaration accompanies the Memorandum of Law in Support of NPC's Motion for Summary Judgment and NPC's Local Rule 56.1 Statement.

A. Fact Witness Deposition Transcripts

1. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the transcript of the deposition of Jack Augusty, dated September 8, 2016.

2. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the transcript of the deposition of Jill Baird, dated October 12, 2016.

3. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the transcript of the deposition of Alicia Bazemore, dated September 27, 2016.

4. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the transcript of the deposition of Michael Beck, dated October 20, 2016.

5. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the transcript of the deposition of Nicole Bergquist, dated October 18, 2016.

6. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from the transcript of the deposition of Oswald Bilotta, dated October 13, 2016.

7. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the transcript of the deposition of Kathy Bronshtein, dated October 24, 2016.

8. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the transcript of the deposition of Molly Campbell, dated September 27, 2016.

9. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from the transcript of the deposition of Richard G. Cassoff, dated September 7, 2016.

10. Attached hereto as Exhibit 10 is a true and correct copy of excerpts from the transcript of the deposition of Cynthia Cetani, dated September 30, 2016.

11. Attached hereto as Exhibit 11 is a true and correct copy of excerpts from the transcript of the deposition of Jamie Chen, dated October 7, 2016.

12. Attached hereto as Exhibit 12 is a true and correct copy of excerpts from the transcript of the deposition of Michael Contreras, dated September 23, 2016.

13. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from the transcript of the deposition of Maribeth Di Pinto-Moss, dated September 23, 2016.

14. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the transcript of the deposition of Richard Eschle, dated October 27, 2016.

15. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the transcript of the deposition of Alex Gorsky, dated March 7, 2017.

16. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from the transcript of the deposition of Mark Hennion, dated October 25, 2016.

17. Attached hereto as Exhibit 17 is a true and correct copy of excerpts from the transcript of the deposition of David Hollasch, dated November 29, 2016.

18. Attached hereto as Exhibit 18 is a true and correct copy of excerpts from the transcript of the deposition of Lisa Ippoliti, dated October 7, 2016.

19. Attached hereto as Exhibit 19 is a true and correct copy of excerpts from the transcript of the deposition of Suad Ismail, dated November 29, 2016.

20. Attached hereto as Exhibit 20 is a true and correct copy of excerpts from the transcript of the deposition of Seth L. Ivins, dated October 28, 2016.

21. Attached hereto as Exhibit 21 is a true and correct copy of excerpts from the transcript of the deposition of Mark Iwicki, dated October 19, 2016.

22. Attached hereto as Exhibit 22 is a true and correct copy of excerpts from the transcript of the deposition of Julie Kane, dated October 18, 2016.

23. Attached hereto as Exhibit 23 is a true and correct copy of excerpts from the transcript of the deposition of Troy King, dated October 20, 2016.

24. Attached hereto as Exhibit 24 is a true and correct copy of excerpts from the transcript of the deposition of Beth Margerison, dated October 17, 2016.

25. Attached hereto as Exhibit 25 is a true and correct copy of excerpts from the transcript of the deposition of Lisa Nawrocki, dated October 21, 2016.

26. Attached hereto as Exhibit 26 is a true and correct copy of excerpts from the transcript of the deposition of Natalie Nelson-Ling, dated October 21, 2016.

27. Attached hereto as Exhibit 27 is a true and correct copy of excerpts from the transcript of the deposition of Richard Pennino, dated October 16, 2016.

28. Attached hereto as Exhibit 28 is a true and correct copy of excerpts from the deposition of Lindsey Peterson, dated October 4, 2016.

29. Attached hereto as Exhibit 29 is a true and correct copy of excerpts from the transcript of the deposition of Noah Puckowitz, dated December 8, 2016.

30. Attached hereto as Exhibit 30 is a true and correct copy of excerpts from the transcript of the deposition of Martins Putenis, dated October 26, 2016.

31. Attached hereto as Exhibit 31 is a true and correct copy of excerpts from the transcript of the deposition of Alicia Rivera, dated October 2, 2016.

32. Attached hereto as Exhibit 32 is a true and correct copy of excerpts from the transcript of the deposition of Catherine Robinson, dated September 30, 2016.

33. Attached hereto as Exhibit 33 is a true and correct copy of excerpts from the transcript of the deposition of Karen Sorensen, dated February 24, 2017.

34. Attached hereto as Exhibit 34 is a true and correct copy of excerpts from the transcript of the deposition of Eduard Tsymerman, dated September 9, 2016.

35. Attached hereto as Exhibit 35 is a true and correct copy of excerpts from the transcript of the deposition of Michelle Williams, dated September 9, 2016.

36. Attached hereto as Exhibit 36 is a true and correct copy of excerpts from the transcript of the deposition of Maria Woods, dated October 28, 2016.

B. Documents

37. Attached hereto as Exhibit 37 is a true and correct copy of an Ethics & Compliance Policies document, dated May 26, 2011, bearing Bates number NPCLSV_LIT000783141.

38. Attached hereto as Exhibit 38 is a true and correct copy of a Novartis Field Force Policies and Procedures Manual, dated January 21, 2011, bearing Bates number NPCLSV_LIT002476796.

39. Attached hereto as Exhibit 39 is a true and correct copy of an Ethics & Compliance Policies document, dated September, 2010, bearing Bates number NPCLSV_LIT000364364.

40. Attached hereto as Exhibit 40 is a true and correct copy of an Ethics & Compliance Policies document, dated June 25, 2009, bearing Bates number NPCLSV_LIT002472878.

41. Attached hereto as Exhibit 41 is a true and correct copy of an Ethics & Compliance Policies document, dated October 2008, bearing Bates number NPCLSV00015272.

42. Attached hereto as Exhibit 42 is a true and correct copy of an Ethics and Compliance Policies document, dated May 2008, bearing Bates number NPCLSV_LIT006678197.

43. Attached hereto as Exhibit 43 is a true and correct copy of a Speaker Event & Meal Policies document, dated November 2006, bearing Bates number NPCLSV02634835.

44. Attached hereto as Exhibit 44 is a true and correct copy of an Ethics & Compliance document, dated September 2006, bearing Bates number NPCLSV_LIT003719833.

45. Attached hereto as Exhibit 45 is a true and correct copy of an Ethics and Compliance Policies document, dated January 2006, bearing Bates number NPCLSV_LIT006544897.

46. Attached hereto as Exhibit 46 is a true and correct copy of a Healthcare Compliance Guidelines document, dated September 2004, bearing Bates number NPCLSV00014711.

47. Attached hereto as Exhibit 47 is a true and correct copy of a Speaker Program Guidelines document, dated January 23, 2004, bearing Bates number NPCLSV_LIT006447423.

48. Attached hereto as Exhibit 48 is a true and correct copy of a Healthcare Compliance Guidelines, dated October 2003, bearing Bates number NPCLSV00014370.

49. Attached hereto as Exhibit 49 is a true and correct copy of a PhRMA Code, Novartis & You document, dated October 2002, bearing Bates number NPCLSV00014306.

50. Attached hereto as Exhibit 50 is a true and correct copy of a Promotional, Educational & Grant Guidelines document, dated January 2002, bearing Bates number NPCLSV00014349.

51. Attached hereto as Exhibit 51 is a true and correct copy of an Educational, Promotional & Grant Guidelines document, dated October 29, 2001, bearing Bates number NPCLSV00014180.

52. Attached hereto as Exhibit 52 is a true and correct copy of the 2009 PhRMA Code of Conduct, Code on Interactions with Health Care Professionals, dated January 2009, bearing Bates number NPCLSV_LIT000906996.

53. Attached hereto as Exhibit 53 is a true and correct copy of the OIG Compliance Program Guidance for Pharmaceutical Manufacturers, dated May 5, 2003.

54. Attached hereto as Exhibit 54 is a true and correct copy of the 2002 PhRMA Code of Conduct, Code on Interactions with Health Care Professionals, dated July 1, 2002, bearing Bates number NPCLSV_LIT006752052.

55. Attached hereto as Exhibit 55 is a true and correct copy of an email from D. Hollasch to N. Nelson, dated September 15, 2009, bearing Bates number NPCLSV_LIT003382319.

56. Attached hereto as Exhibit 56 is a true and correct copy of Deposition Exhibit Peterson DX1, introduced during the deposition of Lindsey Peterson, which is an email from Ted White to Seth Burg and others, dated December 16, 2005, bearing Bates number NPCLSV_LIT002061057.

57. Attached hereto as Exhibit 57 is a true and correct copy of a presentation dated August 1, 2006, bearing Bates number NPCLSV_LIT001226137.

58. Attached hereto as Exhibit 58 is a true and correct copy of a presentation dated March 21, 2006, bearing Bates number NPCLSV_LIT002102286.

59. Attached hereto as Exhibit 59 is a true and correct copy of a presentation dated March 21, 2006, bearing Bates number NPCLSV_LIT002204844.

60. Attached hereto as Exhibit 60 is a true and correct copy of a presentation dated May 12, 2005, bearing Bates number NPCLSV_LIT002161745.

61. Attached hereto as Exhibit 61 is a true and correct copy of a Report Central: Integration of Events Data from External Vendors document, dated February 29, 2008, bearing Bates number NPCLSV_LIT006333179.

62. Attached hereto as Exhibit 62 is a true and correct copy of a Using Novartis Event Central document, dated May 26, 2004, bearing Bates number NPCLSV_LIT006597259.

63. Attached hereto as Exhibit 63 is a true and correct copy of a Business Rules: First Line Managers the edge NEC Training presentation, dated October 13, 2003, bearing Bates number NPCLSV_LIT006342801.

64. Attached hereto as Exhibit 64 is a true and correct copy of an excerpt of Concerto data, bearing Bates numbers NPCLSV_LIT012419767-769, NPCLSV_LIT012419772 and NPCLSV_LIT012419773.

65. Attached hereto as Exhibit 65 is a true and correct copy of an excerpt of Concerto data, bearing Bates numbers NPCLSV_LIT012419766 and NPCLSV_LIT012419768-773.

66. Attached hereto as Exhibit 66 is a true and correct copy of the 2010 Settlement Agreement between the United States Department of Justice and NPC, dated September 27, 2010.

67. Attached hereto as Exhibit 67 is a true and correct copy of the 2010 Corporate Integrity Agreement that NPC entered into with the Office of the Inspector General of the Department of Health and Human Services, dated September 29, 2010.

C. Expert Reports

68. Attached hereto as Exhibit 68 is a true and correct copy of the Expert Report of Eric M. Gaier, dated December 11, 2017.

69. Attached hereto as Exhibit 69 is a true and correct copy of the Expert Report of Richard M. Goldberg, dated August 14, 2017.

70. Attached hereto as Exhibit 70 is a true and correct copy of the Expert Report of Daniel McFadden, dated August 14, 2017.

71. Attached hereto as Exhibit 71 is a true and correct copy of the Rebuttal Expert Report of Daniel McFadden, dated February 7, 2018.

72. Attached hereto as Exhibit 72 is a true and correct copy of the Expert Report of Graham T. McMahon, dated August 14, 2017.

D. Expert Deposition Transcripts

73. Attached hereto as Exhibit 73 is a true and correct copy of excerpts from the transcript of the deposition of Roberta Clarke, dated February 28, 2018.

74. Attached hereto as Exhibit 74 is a true and correct copy of excerpts from the transcript of the deposition of Richard M. Goldberg, dated March 6, 2018.

75. Attached hereto as Exhibit 75 is a true and correct copy of excerpts from the transcript of the deposition of Daniel McFadden, dated March 1, 2018.

76. Attached hereto as Exhibit 76 is a true and correct copy of excerpts from the transcript of the deposition of Graham McMahon, dated January 29, 2018.

77. Attached hereto as Exhibit 77 is a true and correct copy of excerpts from the transcript of the deposition of Raymond Townsend, dated January 23, 2018.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: August 29, 2018

New York, New York



Benjamin Gruenstein